

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN RODGERS,

Petitioner,

No. CIV S-01-0975 FCD GGH P

vs.

CLAUDE E. FINN,

Respondent.

ORDER

Petitioner, a state prisoner, has timely filed a notice of appeal of this court's January 23, 2007, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).


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1 For the reasons set forth in the magistrate judge's November 1, 2006, findings and  
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional  
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: April 11, 2007.

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8 FRANK C. DAMRELL, JR.  
9 UNITED STATES DISTRICT JUDGE  
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